

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PADDLEWHEEL ALLIANCE OF LOUISVILLE AND  
UTILITY RATECUTTERS OF KENTUCKY, INC.

COMPLAINANTS

v.

LOUISVILLE GAS AND ELECTRIC COMPANY

DEFENDANT

CASE NO. 9855

O R D E R

BACKGROUND

On January 13, 1987, Paddlewheel Alliance of Louisville, Kentucky, ("PWA") and Utility Ratecutters of Kentucky, Inc., ("URCK") filed an emergency formal complaint against Louisville Gas and Electric Company ("LG&E"). In the complaint, PWA and URCK allege that LG&E's plan to complete Trimble County Unit No. 1 ("Trimble County") as reported in "Project Construction Plan - Trimble County Generating Station Unit No. 1" is inconsistent with the Commission's Order of October 14, 1985, in Case No. 9243, An Investigation and Review of Louisville Gas and Electric Company's Capacity Expansion Study and the Need for Trimble County Unit No. 1. PWA and URCK interpret the Order to mean that LG&E should delay all activity at the Trimble County site until the Commission completes its statewide planning investigation. In the complaint, PWA and URCK request the Commission to enter an immediate

restraining order to prevent LG&E from spending or committing any additional funds to the Trimble County project, to reject LG&E's Project Construction Plan, and to order the continued delay in the construction until Administrative Case 308, An Inquiry Into Kentucky's Present and Future Electric Needs And The Alternatives For Meeting Those Needs, determines the need for Trimble County.

On February 4, 1987, the Commission issued a Satisfy or Answer Order. The Order required LG&E to satisfy the matters complained of or file a written answer within 10 days. LG&E was also ordered to provide within 30 days other information which included the current status of engineering contracts for the sulfur dioxide removal system, the planned date for synchronization of Trimble County, and any additional updates or revisions to costs or time schedules in LG&E's Project Construction Plan.

A motion for full intervention was granted to the Office of the Attorney General's Utility and Rate Intervention Division.

In response to the Commission Order, LG&E filed a Motion to Dismiss and Answer on February 19, 1987. In the motion LG&E responded to the points raised in PWA and URCK's complaint. First, LG&E points out that it is beyond the Commission's statutory authority to issue a restraining order. Second, LG&E states that the final Order in Case No. 9243 was issued on June 2, 1986, where upon rehearing the Commission held "that LG&E shall delay the completion of Trimble County Unit No. 1 until at least July 1991, and shall use the July 1991 date for planning, budgeting and reporting purposes." (Page 7.) The complainants

did not file an appeal with the Franklin Circuit Court to challenge the Commission's Order pursuant to KRS 278.410. Third, LG&E notes that the Commission reaffirmed its decision in Case No. 9243 in Case No. 9709, Petition By Louisville Gas and Electric Company That It Be Allowed To Employ A 1990 Completion Date Of Its Trimble County Unit No. 1 for Planning, Budgeting, Reporting and Tax Purposes. URCK intervened in Case No. 9709 and did not petition the Commission for a rehearing or file an appeal. Fourth, LG&E states that its understanding of Administrative Case No. 308 is that the information gathered will provide both LG&E and the Commission "useful guidance in evaluating Trimble County's role in future statewide planning options." Fifth, LG&E states that its construction plan is consistent with the Commission's Order in Case No. 9243.

On February 27, 1987, PWA and URCK responded to LG&E's answer. In the response, PWA and URCK explain that the problem lies in its interpretation of the Commission's Order in Case No. 9243 versus LG&E's interpretation. PWA and URCK state that they interpret a period of delay to be "a time in which construction would be stopped." LG&E's construction plan on the other hand calls for construction to resume 6 months after the Commission's Order instead of 3 years. PWA and URCK also express their concern that if LG&E becomes financially committed to Trimble County during the period of delay, then the investigation in Administrative Case No. 308 will not be to determine whether Trimble County is needed to meet Kentucky's future electric needs

but instead how it will be integrated into a statewide electric plan.

On March 4, 1987, LG&E renewed its motion to dismiss this case. The basis for LG&E's motion is the complainants' response in which they provide their definition of delay. LG&E states there is "no conceivable way LG&E could cease construction and halt commitments for a period of three years and still achieve a completion date of July 1991." (Page 2.)

LG&E responded to the Commission's request for additional information on March 11, 1987. In the response with regard to the status of the contracts for the scrubber system LG&E states that on February 2, 1987, it released Combustion Engineering, Inc., to resume engineering and scheduling in order to make timely commitments for delivery of equipment and materials. Although the release did not call for delivery of any materials until the second quarter of 1988, it does commit LG&E to payment of \$600,000 in 1987. LG&E also stated that the planned synchronization date is December 15, 1990. LG&E's objective is to make certain that Trimble County is sufficiently reliable by July 1991 to be used to meet LG&E's summer loads. Other minor changes in the construction plan were also reported.

On April 6, 1987, PWA and URCK replied to LG&E's response to the data request. They express their concern that the information confirms that LG&E is continuing its construction and making financial commitments.

On April 13, 1987, PWA and URCK filed a motion to delay all construction at the Trimble County site until completion of

Administrative Case No. 308. This motion was originally filed in Case No. 9854, which has the same style as this case. However, upon subsequent motion by LG&E this motion is properly filed in this docket. In the motion PWA and URCK state that because Administrative Case No. 308 may not be postured to resolve the question of whether Trimble County should be completed and since construction and financial commitments continue, it is necessary for the Commission to confront any ambiguity in its Order in Case No. 9243. PWA and URCK move the Commission to modify its Order and rather than impose a 3-year delay require all construction to cease until Administrative Case No. 308 is concluded. They contend that this will provide an opportunity for review and also provide LG&E with the incentive to work for a prompt resolution of the issues in Administrative Case No. 308.

On April 23, 1987, LG&E filed a motion to dismiss the PWA and URCK's motion to delay.

#### FINDINGS AND ORDERS

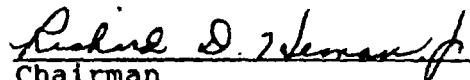
The June 2, 1986, Order of the Commission in Case No. 9243 states at pages 6 and 7 "that in approximately one year a docket should be initiated by the Commission to allow for a formal review of the current status of the Trimble County plant." The record in the present case raises several of the issues the Commission planned to review in the docket described in Case No. 9243. However, the formal review referred to in Case No. 9243 envisioned an active participation by all the parties and also the inclusion of more issues than have been addressed in this complaint case. Given the fact that approximately one year has elapsed since the

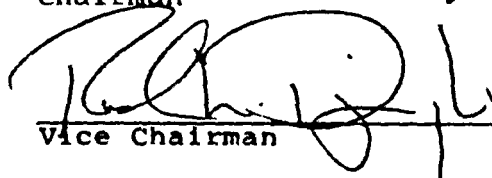
Final Order in Case No. 9243, the Commission, having considered the evidence of record and being advised, is of the opinion and finds that the docket to allow for the formal review of the status of Trimble County should be initiated and that this complaint case should be incorporated into the new docket. The new docket is Case No. 9934, A Formal Review of the Current Status of Trimble County Unit No. 1.

IT IS THEREFORE ORDERED that this complaint case shall be and hereby is incorporated into Case No. 9934.

Done at Frankfort, Kentucky, this 27th day of May, 1987.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Executive Director